



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DIRECT REQUEST DECISION

Dispute Codes: OPR, MNR

Introduction

This application proceeded by way of Direct Request Proceeding, pursuant to section 55(4) of the Act. The landlord seeks an Order of Possession and a monetary order for rental arrears based on a 10-Day Notice to End Tenancy for Unpaid Rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request Proceeding which declares that on September 10, 2014 at 7:18 p.m., the landlord served the tenant with the Notice of Direct Request Proceeding by posting it on the tenant's door. Section 90 of the Residential Tenancy Act, determines that a document is deemed to have been served on the third day after it was posted on the door.

Based on the written submissions of the landlord, I find that the tenant has been served with the Dispute Resolution Direct Request Proceeding documents.

Preliminary Issue 1: Monetary Claim for Rent

Sections 88 and 89 of the Act determine the method of service for documents. The Tenant has applied for a Monetary Order under section 67 of the Act which requires that the landlord serve the tenant with hearing documents as set out under Section 89(1). This requires service in one of the following ways:

- (a) by leaving a copy with the person, (personal service);*
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;*
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

In this case I accept that the landlord served the hearing documents by posting them on the tenant's door. I find that this method of service is not in compliance with any of the above methods listed under section 89(1) of the Act that are required in order to seek monetary compensation. Therefore it is not possible to proceed with the monetary claim portion of the landlord's application.

The portion of the application dealing with the monetary claim is therefore dismissed with leave to reapply.

Preliminary Issue 2: Order of Possession

After the application was filed, the landlord sent in a communication stating that the landlord discovered the tenant had vacated the rental unit on September 13, 2014.

Therefore I find that the landlord's request for an Order of Possession is now moot as the landlord has already regained possession of the rental unit.

Given the above, I find that I am not able to proceed with any issue of dispute under the Residential Tenancy Act put forth in this application. I find that an Order of Possession is not necessary and I hereby dismiss the landlord's monetary claim with leave to reapply due to noncompliant service.

Conclusion

The issues in the landlord's application for Direct Request proceeding cannot proceed as the tenant was not served in accordance with the Act to seek a monetary order and the request for an order of possession is moot as the tenant vacated the unit. is successful in the application and is granted both a monetary order and an Order of Possession.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 25, 2014

Residential Tenancy Branch

